

REMARKS

Status

Claims 1-27 are currently pending. Claims 1-12, 14, 15 and 19-23 are withdrawn.

Claims 13, 16, 17 and 24 stand rejected under 35 U.S.C. 102(b) as allegedly being anticipated by U.S. Patent No. 4,884,871 to Polaschegg. Claims 25 and 26 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Polaschegg in view of U.S. Patent No. 6,372,482 to Mitrani.

Claim 18 has been objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Election

In response to the Office action's assertion that the no suggestion has been made "whether claim 13 is generic to more than one species," the undersigned submits that claim 13 is generic to each of the figures and, thus, is generic to each of the species identified in the February 22, 2005, Office action.

Claim Objection

Claim 16 was objected to because it recited an "extraction chamber." It no longer recites this language, so withdrawal and reconsideration of the objection is requested.

Claim Rejections

Claim 13 and dependent claims 16-17, and 24 stand rejected as being allegedly anticipated by Polaschegg (U.S. Patent 4,844,871). The '871 patent is entitled "Method for Determining Partial Pressure of Gases in Blood and Apparatus for Performing the Method," and regards a method and apparatus "in which a membrane filter is used to separate plasma which passes to a blood gas analyzer." See '871 patent Abstract. The '871 patent fails to disclose or suggest a mixing chamber within a lumen as recited in claim 13. As can be seen in Fig. 1 of the '871 patent, the membrane filter is coupled to two tubes (14 and 30). It is not within either of them and there is no suggestion in the '871 patent to modify the filter to place it within either tube. At least based on this distinction claim 13, and each of its dependent claims, is patentable over the '871 patent.

U.S. patent 6,372,482 is also cited in the rejection in combination with the '871 patent. The '482 patent is entitled "Device and Method for Performing A Biological Modification of A Fluid," and it also fails to disclose or suggest the recited language. Consequently, claims 25 and

26, which were rejected as being allegedly obvious in light of the '482 patent and the '871 patent are also patentably distinct from each of them because of their dependency from claim 13.

At least based on these reasons, claim 13 and each of its dependent claims is patentable over the cited references.

New Claim

Claim 27 is new. It reads on the elected species, figures 1 and 2.

Allowed Claim

Claim 18 was deemed to contain allowable subject matter and has been rewritten into independent form.


CONCLUSION

Reconsideration and allowance of each of the pending claims is requested.

The Office is authorized to charge any underpayment or credit any overpayment to Kenyon & Kenyon's Deposit Account No. 11-0600.

Respectfully submitted,
KENYON & KENYON

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Fred T. Grasso
Reg. No. 43,644

KENYON & KENYON
1500 K Street, N.W., Suite 700
Washington, D.C. 20005-1257
202-220-4200 (phone)
202-220-4201 (facsimile)
580639v1 (FTG/bep)